

TAB 34

Candace Louise Curtis	§	
	§	412249-402
v.	§	Feb 27, 2012
	§	
Anita Brunsting et al.,	§	
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IN RE: THE ESTATE OF	§	PROBATE COURT
	§	
NELVA E. BRUNSTING,	§	NUMBER FOUR (4) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS
	§	412,249 April 2, 2012
	§	
	CLOSED	
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Carl Henry Brunsting	§	
Individually	§	
	§	412,249-401
v.	§	April 9, 2013
	§	
Anita Brunsting et al.,	§	
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Executor for Estate of	§	
Nelva Brunsting	§	412,249-401
v.	§	April 9, 2013
	§	
Anita Brunsting et al.,	§	
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Order

The Court has reviewed the Plea in Abatement and Plea to the Jurisdiction filed by Candace Curtis in the Estate of Nelva Brunsting 412,249 and the ancillary cases. The Court has also reviewed the opposition to the Abatement filed by Carl Brunsting’s attorney Bobbie G. Bayless. No opposition to the Plea to the Jurisdiction has been filed.

The court has examined the record, considered the Pleas and the applicable law and finds that the matter before it is not a probate matter, but an inter vivos trust administration dispute brought under the Texas Civil Practice and Remedies Code.

Ordinarily this court would have jurisdiction over this type of dispute but the Court also finds that lawsuits integrally related to the same nucleus of operative facts, involving the same transactions, events and persons and requiring interpretation of the same instruments, have been filed into three separate courts when only one court can hear and decide this controversy.

The record shows that the Brunsting Trust controversy was first filed in the United States District Court for the Southern District of Texas and that the controversy was pending in that court when a related action was filed in the Harris County District Court. Both of those cases were active when related claims were filed in this Court. Because this Court is not the Court in which Brunsting inter vivos trust related claims were first filed, it is not the court of dominant jurisdiction and could not take cognizance of this matter at the time it was filed. The want of jurisdiction cannot be cured nunc pro tunc.

Thus, the Order accepting a remand of *Candace Louise Curtis v. Anita and Amy Brunsting and Does 1-100 No. 4:12-cv-592* from the Southern District of Texas is void as a matter of law. Ancillary Cause No. 412,249-401 should be dismissed with prejudice and ancillary cause No. 412,249-402 should be returned to the court of origin. For these reasons the Court has determined that the Plea to the Jurisdiction and the Plea in Abatement should both be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Ancillary case No. 412,249-401 is dismissed with prejudice.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Order accepting Remand of *Candace Louise Curtis v. Anita and Amy Brunsting and Does 1-100 No. 4:12-cv-592*, from the Southern District of Texas, is vacated.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Ancillary cause No. 412,249-402 is abated and returned to the court of origin.

It is so Ordered this ____ day of February 2019

James Horwitz, Judge
Harris County Probate Court 4